

the objection, the grounds, and the ruling. Exception to an adverse ruling is preserved without notation on-the-record.

(g) Offer of proof. An offer of proof, made in connection with an objection to a ruling of the presiding officer excluding or rejecting proffered oral testimony, must consist of a statement of the substance of the proffered evidence. If the excluded evidence is in written form, a copy must be marked for identification. Rejected exhibits, adequately marked for identification, must be retained in the record.

(h) Exhibits. A written exhibit will not be received in evidence unless the original and two copies are offered and a copy is furnished to each party, or the parties have been previously furnished with copies or the presiding officer directs otherwise. The presiding officer may permit a party to replace with a true copy an original document admitted in evidence.

(i) Official record. An official record of a government agency or entry in an official record may be evidenced by an official publication or by a copy attested by the officer having legal custody of the record and accompanied by a certificate of his custody.

(j) Official notice. (1) The Commission or the presiding officer may take official notice of any fact of which a court of the United States may take judicial notice or of any technical or scientific fact within the knowledge of the Commission as an expert body. Each fact officially noticed under this paragraph must be specified in the record with sufficient particularity to advise the parties of the matters which have been noticed or brought to the attention of the parties before final decision and each party adversely affected by the decision shall be given opportunity to controvert the fact.

(2) If a decision is stated to rest in whole or in part on official notice of a fact which the parties have not had a prior opportunity to controvert, a party may controvert the fact by filing an appeal from an initial decision or a petition for reconsideration of a final decision. The appeal must clearly and concisely set forth the information relied upon to controvert the fact.

§2.712 Proposed findings and conclusions.

(a) Any party to a proceeding may, or if directed by the presiding officer shall, file proposed findings of fact and conclusions of law, briefs and a proposed form of order or decision within the time provided by this section, except as otherwise ordered by the presiding officer:

(1) The party who has the burden of proof shall, within thirty (30) days after the record is closed, file proposed findings of fact and conclusions of law and briefs, and a proposed form of order or decision.

(2) Other parties may file proposed findings, conclusions of law and briefs within forty (40) days after the record is closed.

(3) A party who has the burden of proof may reply within five (5) days after filing of proposed findings and conclusions of law and briefs by other parties.

(b) Failure to file proposed findings of fact, conclusions of law, or briefs when directed to do so may be considered a default, and an order or initial decision may be entered accordingly.

(c) Proposed findings of fact must be clearly and concisely set forth in numbered paragraphs and must be confined to the material issues of fact presented on-the-record, with exact citations to the transcript of record and exhibits in support of each proposed finding. Proposed conclusions of law must be set forth in numbered paragraphs as to all material issues of law or discretion presented on-the-record. An intervenor's proposed findings of fact and conclusions of law must be confined to issues which that party placed in controversy or sought to place in controversy in the proceeding.

§2.713 Initial decision and its effect.

(a) After hearing, the presiding officer will render an initial decision which will constitute the final action of the Commission forty (40) days after its date unless any party petitions for Commission review in accordance with §2.341 or the Commission takes review sua sponte.

(b) Where the public interest so requires, the Commission may direct that the presiding officer certify the